



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/161606

PRELIMINARY RECITALS

Pursuant to a petition filed October 30, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on November 18, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly calculated Petitioner's FS benefits for October 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. Petitioner's household size is three.
2. Petitioner's monthly income for October 2014 \$1119.80 consisting of \$876 from employment and \$631 in W-2 income.

3. Petitioner did not have any shelter costs in October 2014.

DISCUSSION

In calculating Petitioner's monthly FS benefits, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires that the county start with gross income. *FSWH*, 1.1.4. The agency then must deduct a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 2 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I have reviewed the agency's calculations in this case. The agency's calculations in this case are incorrect. The agency incorrectly calculated Petitioner's earned income from employment. I find that Petitioner's earned income from employment in October 2014 was \$876. This finding is based on the agency's testimony that this amount of income they verified for October 2014. Petitioner testified that she reported to the agency that she had stopped working at her previous job and had started at [REDACTED]. The agency testified that Petitioner did not report this until her six-month report on October 30, 2014. I find that Petitioner's FS should have been higher in October 2014. The agency incorrectly budgeted a higher income than what Petitioner actually earned. It is somewhat unclear whether Petitioner reported her change in income to the agency, however, I find that she did report this change.

CONCLUSIONS OF LAW

The agency incorrectly calculated Petitioner's monthly FS benefits for October 2014.

THEREFORE, it is

ORDERED

That this case is remanded back to the agency to recalculate Petitioner's FS benefits for October 2014. The monthly gross income for October 2014 is \$1119.80. Petitioner did not have any shelter costs in October 2014. The agency should use those amounts when recalculating Petitioner's monthly FS for October 2014. The agency has 10 days to comply with this order.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of November, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 24, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability